MONTANA LEGISLATIVE HISTORY

Chapter 288 19 95

Bill H 289 S _____ Original bill & history ✓ C

H. Committee on Local Government			S. Committee on Local Government		
Hearing Date(s)	Jan 31	✓ C	Hearing Date(s)	Mar 14	✓ C
	Feb 14	✓ C		Mar 16	✓ C
		C			C
		C			C
Date Out	Feb 15	✓ C		Mar 17	✓ C

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____ Report _____

2/02	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/03	2ND READING PASSED	92	6
2/04	3RD READING PASSED	94	3
	TRANSMITTED TO SENATE		
2/06	FIRST READING		
2/06	REFERRED TO FISH & GAME		
2/28	HEARING		
3/02	COMMITTEE REPORT—BILL CONCURRED		
3/04	2ND READING CONCURRED	43	0
3/06	3RD READING CONCURRED	49	0
	RETURNED TO HOUSE		
3/07	SIGNED BY SPEAKER		
3/08	SIGNED BY PRESIDENT		
3/09	TRANSMITTED TO GOVERNOR		
3/10	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 115		
	EFFECTIVE DATE: 10/01/95		

HB 289 INTRODUCED BY SOFT, ET AL.

IMPLEMENT RECOMMENDATION OF THE GOVERNOR'S TASK FORCE TO RENEW MONTANA GOVERNMENT BY ELIMINATING THE 12 PERCENT A YEAR UTILITY RATE INCREASE LIMIT FOR MUNICIPAL UTILITIES

1/20	INTRODUCED		
1/20	FIRST READING		
1/20	REFERRED TO LOCAL GOVERNMENT		
1/20	FISCAL NOTE REQUESTED		
1/25	FISCAL NOTE RECEIVED		
1/25	FISCAL NOTE PRINTED		
1/31	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/17	2ND READING PASSED	77	21
2/18	3RD READING PASSED	72	27
	TRANSMITTED TO SENATE		
2/21	FIRST READING		
2/21	REFERRED TO LOCAL GOVERNMENT		
3/14	HEARING		
3/18	COMMITTEE REPORT—BILL CONCURRED		
3/25	2ND READING CONCURRED	46	2
3/27	3RD READING CONCURRED	36	13
	RETURNED TO HOUSE		
3/28	SIGNED BY SPEAKER		
3/28	SIGNED BY PRESIDENT		
3/29	TRANSMITTED TO GOVERNOR		
3/30	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 288		
	EFFECTIVE DATE: 10/01/95		

HB 290 INTRODUCED BY DEBRUYCKER

PROVIDE A METHOD OF PROVIDING ACCESS TO ISOLATED LAND

1/20	INTRODUCED
1/20	FIRST READING
1/20	REFERRED TO JUDICIARY
2/01	HEARING
2/08	TABLED IN COMMITTEE
2/23	MISSED TRANSMITTAL DEADLINE
	DIED IN COMMITTEE

INTRODUCED BY ~~House~~ BILL NO. 289

A BILL FOR AN ACT ENTITLED: "AN ACT IMPLEMENTING THE RECOMMENDATION OF THE GOVERNOR'S TASK FORCE TO RENEW MONTANA GOVERNMENT BY ELIMINATING THE 12 PERCENT A YEAR UTILITY RATE INCREASE LIMIT FOR MUNICIPAL UTILITIES; AMENDING SECTION 69-7-101, MCA; AND REPEALING SECTION 69-7-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-7-101, MCA, is amended to read:

"**69-7-101. Municipal utilities -- regulation by municipality ~~—limitation~~.** A municipality has the power and authority to regulate, establish, and change, as it considers proper, rates, charges, and classifications imposed for utility services to its inhabitants and other persons served by municipal utility systems. Rates, charges, and classifications ~~shall~~ must be reasonable and just ~~and, except as provided in 69-7-102, they may not be raised to yield more than a 12% increase in total annual revenues or, in the case of mandated federal and state capital improvements, the increase may not exceed amounts necessary to meet the requirements of bond indentures or loan agreements required to finance the local government's share of the mandated improvements. Annual revenues must be computed on any consecutive 12-month period for purposes of this chapter.~~"

NEW SECTION. **Section 2. Repealer.** Section 69-7-102, MCA, is repealed.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0289, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

A bill implementing the recommendation of the Governor's Task Force to Renew Montana Government by removing the Public Service Commission (PSC) from reviewing municipal utility rate increases.

ASSUMPTIONS:

1. In FY94 there were twelve (12) municipal filings made to change utility rates, that were processed by the PSC. For the most part these were small filings.
2. Approximately 150 person hours were required to process the 12 filings.
3. The PSC is funded with a utility tax levied on gross operating revenue of public utilities regulated by the PSC. By statute, the tax is calculated to generate the amount of PSC's approved budget. Municipal utilities contribute to the funding of the PSC through the tax. The amount of revenue that would have been contributed by the municipal utilities, but now must be covered by other regulated utilities because of this legislation, cannot be determined at this time.

FISCAL IMPACT:

	FY96 Difference	FY97 Difference
Expenditures:		
Personal Services	(5,798)	(5,798)
Operating Expenses	(426)	(426)
Total	(6,226)	(6,226)
Funding:		
State Special Revenue (02)	(6,226)	(6,226)

Dave Lewis 1-24-95

DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Loren Soft

LOREN SOFT, PRIMARY SPONSOR DATE

Fiscal Note for HB0289, as introduced

HB 289

Proponents' Testimony:

Bob Gilbert, Montana Clerks of District Court, reiterated this is a housekeeping bill overlooked in the 1993 session. The Clerks of District Court felt this should be brought up to the level of all the others.

Nancy Sweeny, Clerk of District Court, Lewis and Clark County, appeared on behalf of the Montana Association of Clerks of District Court and said that HB 231 would amend 27-9-103, MCA, to set the fee for a confession of judgment at $45. Although this amendment would increase fees, the fiscal impact of this proposed legislation is negligible, as reflected in the fiscal note. Lewis and Clark County would have received an additional $80 during the entire calendar year 1994. The Montana Association of Clerks of District Court did not request **REP. PAVLOVICH** to submit this bill to significantly increase a revenue source. This legislation will make the collection of a fee for entry of judgment uniform by correcting an oversight of the 1993 legislation session. **EXHIBIT 1**

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor: The sponsor closed and said this would be a good time to put this bill on the consent calendar.

{Tape: 1; Side: A; Approx. Counter: 7.0;}

HEARING ON HB 289

Opening Statement by Sponsor:

REP. LOREN SOFT, HD 12, Billings, introduced **HB 289** and said this is an act implementing the recommendation of the Governor's Task Force to Renew Montana Government by eliminating the 12 percent a year utility rate increase limit for municipal utilities; amending section 69-7-102, MCA. This bill would remove the Public Service Commission (PSC) from reviewing municipal utility rate increases. A municipality has the power and authority to regulate, establish, and change, as it considers proper rates, charges, and classifications imposed for utility services to its inhabitants and other persons served by municipal utility systems. Rates, charges, and classifications must be reasonable and just. The local elected officials rather than statewide elected officials are in a better position to set rates. The local level officials are more accountable to the people in their local districts. The task force heard a lot of testimony on how expensive it is to prepare these rates and concluded they could use the money and put the funds into water and sewer projects.

The rural water and sewer districts are not currently not under the jurisdiction of the PSC. **REP. SOFT** then gave examples in the Helena Valley where the Eastgate water and sewer district has approximately 500 customers. The task force was concerned with higher fees to people residing outside the municipal boundary, which is not allowed by current statute. Another concern was if rates get too high, what recourse do people have. They will still have the avenues of appeal available to them through this bill. PSC does a good job in assisting some committees in their rate requests, however, this would no longer be available. There are private engineers and accountants that would be available to the cities to help them prepare these. The counties and the governor's office worked together on this bill. Montana is one of twelve states left in the union that has regulated water, utilities and six states including Montana have regulated sewer utilities. **REP. SOFT** urged support of this bill.

Proponents' Testimony:

Laurie Ekanger, Governor's Office, spoke in favor of **HB 289** and urged support of this bill.

Nancy McCaffree, Public Service Commission, spoke in favor of this bill with the amendment. The present statute requires a minimal amount of their staff time, approximately 1,510 hours a year. They would like to be in or out of regulating municipal water. As it now stands, the statute gives only an illusion of regulation. One of their concerns is they want local governments set rates to cover water and sewer costs only and they should be very conscientious that the costs do not become a source of revenue from the general fund. **EXHIBIT 2**

Larry Fasbender, City of Great Falls, agreed with previous testimony and said this bill is long overdue and he urged a do pass recommendation.

James Kembel, City of Billings, wished to go on record in support of HB 289.

Dave Ashley, Deputy Director, Department of Administration, submitted a proposed amendment for consideration. **EXHIBIT 3**

Kim Milburn, Public Works Department, City of Helena, added their support for this bill. Whenever rate increases are proposed, they will go through a very strict analysis on how the rates will be determined based upon cost. Once that is determined, it is presented in a public forum hearing for the city commission and public to attend. This is a very public process.

{Tape: 1; Side: 1; Approx. Counter: 14.7;}

Alec Hanson, Montana League of Cities and Towns, attested their support of this bill and reiterated previous testimony and said

this is a good time for all the public utilities in Montana to operate under the same law.

Opponents' Testimony:

Greg Van Horssen, representing 1,100 property managers of the state, said he has never before stood up against this much opposition in his entire lobbying career. The people he represents operate approximately 50 to 75,000 units across the state. They are concerned about the problem of affordable housing in Montana and they bear the brunt of this problem. Every time there is an increase in utilities or any other operating cost on property, they must raise rents. Their concern is that the result would be an excess increase in rent in the future, and they will be have to pass that increase along to the consumers in the state of Montana. The 12% cap once exceeded would require utilities to proceed to the Commission may have in some cases acted as a de-incentive to raising rates to that magnitude. To the extent, if it did act as a dis-incentive and did keep rates down and keep housing more affordable in the future, he asked for the committee's consideration.

Informational Testimony: None

Questions From Committee Members and Responses:

REP. SHIELL ANDERSON asked **Ms. McCaffree,** if currently if there is a proposed rate increase greater than 12%, does it go to the Commission. **Ms. McCaffree** responded yes, it is protested. **REP. ANDERSON** asked if there have situations where a particular rate increase has been requested and Commission will give them 13% instead of 14%. **Ms. McCaffree** responded it could, consult their rate analysis. **REP. ANDERSON** asked how many do they see. **Ms. McCaffree** responded very few, twelve last year.

{Tape: 1; Side: 1; Approx. Counter: 20.1;}

REP. DAVID EWER said it was his understanding that county water and sewer districts are not under rate review by the Commission. **Ms. McCaffree** responded that she believes so. **REP. EWER** said only municipalities are under the Commission and not water and sewer districts providing services.

REP. EWER said regarding the concern raised about municipalities arbitrarily raising rates he referred to statutory provision 7-13-4304, stating "Authority for the charge of services that local governments water and sewer rates charge and rentals shall be nearly as possibly equitable in proportion to the services and benefits rendered." **REP. EWER** said there are other references in the statute that service charges have to bear in proportion to the benefits received and asked **Mr. Van Horssen** if he still has concerns with that statute in law. **Mr. Van Horssen** responded that his concern primarily involves removing what once was a cap to a utility increase. They had the Commission get involved when a

rate increase reached a certain magnitude. The fact that the Commission was eventually going to be involved in the magnitude increase may have by virtue of the small number of cases brought before the organization serve as a dis-incentive. Previous to this change in the legislation, they may not have seen changes to the magnitude that they may see in the future.

REP. JOHN BOHLINGER stated if they were to eliminate the 12% cap and if they were to twice water as its done in neighboring states, being one of six states that regulate water, the states that are not regulated, what percentage increase are consumers of that product faced with, is it a runaway situation?

Bill Verwolf, City Manager, Helena, responded the history of the Commission regulation of municipal water rights, there are two exemptions. One is as long as the rate increase is kept under 12% per annum, they are exempt from that review. The other is they raise the rates to pay for an improvement that was mandated by a superior authority of state and federal governments, the cost of providing that is also exempt from Commission review. Since those two exemptions were in place, very few municipalities have need to go to the Commission for something in excess of 12%. Most of the water and utility rates around the state have been either for mandated improvements or consistent for inflation costs. There was a mandated improvement cost in the city of Helena a number of years ago and there has not been a rate increase since. There may be a raise increase in the future to meet inflationary costs. There was a decrease and they were able to re-issue a bond issue at a lower interest rate and lower the annual debt service, which allowed them to take a few cents off the water rate. The elected officials are very aware of the impact of water rates on their constituents and have been conservative about rates. They are concerned if they are charging enough to keep the system up, as opposed to letting it go and having to do major improvements in lump sums.

REP. NORM MILLS asked **Mr. Van Horssen** what his attitude would be if there was a major failure of a water system and they had to have a rate increase above the 12% and a number of his constituents would be in danger of losing their water service. He referred to the two exemptions to the 12%. The landlord has the statutory obligations to take care of those type things. They must be non-committal when it comes to a statutory obligation. There is no concern in that respect. The people he represents fully expect and are happy to provide those type of expenditures. They generally must pass those costs along. The necessary costs are not the problem.

CHAIRMAN BOHARSKI referred to the fiscal note and asked **Ms. McCaffree** of the 12 filings with the Commission in FY94, were any of those changed by the public service commission. **Ms. McCaffree** responded no. **CHAIRMAN BOHARSKI** asked if they were allowed to go through as they were requested. **Ms. McCaffree** responded yes. **CHAIRMAN BOHARSKI** asked if they were all water and sewer. **Ms.**

McCaffree said they were all water and sewer and mainly to bring their facilities up to standard that is required by federal government.

CHAIRMAN BOHARSKI referred to the fiscal note shows the reduction in the next biennium of about $13,000 and asked if via her support of this bill, she is asking the appropriations committee to take a similar reduction in her budget. **Ms. McCaffree** said it requires so little time of their staff, about 150 hours a year they put into it.

Closing by Sponsor: The sponsor closed asking support of this bill.

{Tape: 1; Side: 1; Approx. Counter: 30.7;}

HEARING ON HB 259

Opening Statement by Sponsor:

REP. CARLEY TUSS, HD 46, Great Falls, is bringing this bill before the committee at the request of the Cascade County Commissioners and the Cascade County sheriff, and it dealt with the penalty of curfew violations. The part of the code this statute falls under has to do with the powers of the county commissioners. They may or may not decide to have a curfew but in the event that they do, the current penalty is $10. They want the penalty raised not to exceed $75 and or ten hours of community service. The last time this was changed was in 1969.

Proponents' Testimony:

Larry Fasbender, Cascade County, reiterated the comments of the sponsor and said this ordinance is in place but the fine is so low it is hardly enforceable. They want to give judges the latitude to enforce the law through imposing community service or higher fine penalties.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. NORM MILLS asked **REP. TUSS** if she was acquainted with the curfew law. She responded that she was. **REP. MILLS** asked at what age the curfew kicks out of operation. She responded the curfew law in Cascade County applies after 11:00 p.m. for persons sixteen years of age and under. **REP. MILLS** asked if there was any irrigated land in the county. **REP. TUSS** responded yes. **REP. MILLS** asked if a person under sixteen working in irrigation would be in violation of the curfew. **REP. TUSS** responded during the summer and early fall, she spent four different night shifts

EXHIBIT 2
DATE 1-31-95
HB 289

HB 289

Testimony by: Nancy McCaffree, Chair
Public Service Commission

Mr. Chairman and Members of the Committee:

The Public Service Commission supports Representative Soft's bill as amended.

The present statute requires a minimal amount of our staff time, probably about 150 hours a year. We would like to be in or out of regulating munincipal water. As it now stands, the statute gives only an illusion of regulation.

We have one grave concern, and that is to be sure that local governments set rates to cover water and/or sewer costs only. They should be very conscientious that these costs do not become a source of revenue for the general fund.

Mr. Ron Woods from our Utility Division is here is answer any technical questions you may have. Thank you.

EXHIBIT 3
DATE 1-31-95
HB 289
DAVE ASHLEY.
13.2

PROPOSED AMENDMENT TO HB 289 (Introduced)

1. Title, line 6
   Following: "MUNICIPAL UTILITIES" on line 6
   Insert: "AND REMOVING THE REQUIREMENT FOR AN ANNUAL REPORT TO THE PUBLIC SERVICE COMMISSION;"

2. Title, line 7
   Following: "REPEALING SECTION 69-7-102" on line 7
   Insert: "AND 69-7-121,"

3. Section 2. Repealer, line 22
   Following: "Section 69-7-102" on line 22
   Strike: "MCA, is repealed."
   Insert: "and 69-7-121, MCA, are repealed."

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Local Government — DATE 1/31/95

BILL NO. 289 SPONSOR(S) Soft

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Nancy McCaffree	PSC	✓	
Rob Woods	PSC	✓	
W James Kembel	City of Billings	✓	
Mary Wright	Mt Consumer Council		
Dave Ashley	Dept of Admin	✓	
Kim Milburn	City of Helena	✓	
Laurie Ekanger	Governors Office	✓	
Larry Fasbender	City of Gt Falls	✓	
Greg Van Horssen	MHP		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

areas are not contiguous, all the other people are now going to have to pay a portion.

REP. BRAINARD suggested putting in the wording "the real property owner may contract to have his property as a destination."

REP. MILLS said that is already permissible.

REP. MCCULLOCH disagreed putting in the suggested language.

REP. EWER discussed the different issues being focused on and concluded this is an issue that can be addressed by the transportation board. He said the primary beneficiaries are the citizens of the transportation district. **REP. EWER** stated his support of the bill that the local board make the decision and he felt this is a good bill for public policy.

REP. DENNY interjected that this particular Wal-Mart question is in his legislative district.

Motion/Vote: **REP. MCCULLOCH MOVED HB 270 DO PASS AS AMENDED. Motion passed 13-5 with REP. TROPILA voting aye by proxy and REPS. BOHARSKI, HERRON, KEENAN, MILLS and WYATT voting no.**

EXECUTIVE ACTION ON HB 289

Motion: **REP. HERRON MOVED HB 289 DO PASS.**

Discussion: **Mr. Campbell** stated he had some amendments. EXHIBIT 20

CHAIRMAN BOHARSKI explained that the amendments were brought in by the Public Service Commission because if the requirement to review is no longer there, there was no reason to require the annual report.

Motion/Vote: **REP. HERRON MOVED HIS AMENDMENTS. Motion carried unanimously.**

Motion/Vote: **REP. ANDERSON MOVED HB 289 DO PASS AS AMENDED. Motion passed 12-6 with REPS. BRAINARD, DENNY, KEENAN, WYATT voting no. REPS. SHEA and TROPILA voted no by proxy.**

EXECUTIVE ACTION ON HB 303

Motion: **REP. ANDERSON MOVED HB 303 DO PASS. REP. DENNY MOVED THE AMENDMENTS.** EXHIBIT 21

Discussion: **REP. DENNY** explained the language in his amendment.

REP. BERGMAN questioned what problem this bill would attempt to "cure."

EXHIBIT 20
DATE 2/14/95
HB 289

PROPOSED AMENDMENT TO HB 289 (Introduced)

1. Title, line 6
   Following: "MUNICIPAL UTILITIES" on line 6
   Insert: "AND REMOVING THE REQUIREMENT FOR AN ANNUAL REPORT TO THE PUBLIC SERVICE COMMISSION;"

2. Title, line 7
   Following: "REPEALING SECTION 69-7-102" on line 7
   Insert: "AND 69-7-121,"

3. Section 2. Repealer, line 22
   Following: "Section 69-7-102" on line 22
   Strike: "MCA, is repealed."
   Insert: "and 69-7-121, MCA, are repealed."

HOUSE STANDING COMMITTEE REPORT

February 15, 1995

Mr. Speaker: We, the committee on **Local Government** report that **House Bill 289** (first reading copy -- white) **do pass as amended.**

Signed: Wm E Boharski

Bill Boharski, Chai

And, that such amendments read:

1. Title, line 6.
Following: "UTILITIES;"
Insert: "ELIMINATING THE REQUIREMENT FOR AN ANNUAL REPORT;"

2. Title, line 7.
Strike: "SECTION"
Insert: "SECTIONS"
Following: "69-7-102"
Insert: "AND 69-7-121"

3. Page 1, line 22.
Strike: "Section"
Insert: "Sections"
Following: "69-7-102"
Insert: "and 69-7-121"

-END-

Committee Vote:
Yes 12, No 6.

391312SC.Hbk

REP. MCCULLOCH reminded the committee that HB 270 is just trying to get people who elect not to have their own cars from one place to another.

HEARING ON HB 289

Opening Statement by Sponsor:

REP. LOREN SOFT, HD 12, Billings, presented HB 289 dealing with municipality which comes from the Governor's Task Force. **REP. SOFT** quoted part of the report from the Task Force, "Legislative action should retake into deregulate the municipal regulatory powers of the Public Service Commission (PSC) in order to allow communities to regulate their own municipal utility rates." The process of deregulating the utility rates is happening all across the country. Currently, Montana is one of only 12 states that still has regulated water utilities and one of six states that regulates sewer utilities. Basically, HB 289 removes the PSC from their roll in approving water, sewer, gas and electric rate increases. The system operating now must receive a PSC approval for any increases that exceed 12% unless the increase is due to a federal mandate or state improvement project. HB 289 is a good bill because local elected officials are in a better position to set rates rather than state wide elected officials. It also returns power back to the local governments, and it will save time and money. Preparing rate cases can be quite expensive and local officials felt that the money they spend on cases could be used for services they have now. Rural water and sewer districts are currently not under the PSC jurisdiction. Some questions and answers from across the state referred to people who live outside the municipal boundaries but are served by municipal utilities and if they would be charged more? These people outside the boundaries would not be charged more. If the PSC is not involved what avenue of appeal do the payers have? There is a three tier process starting with the required hearings at the local level, the Montana Consumer Council could represent them in rate hearings in front of the City Council and finally they can appeal to district court. This bill will give back to the local cities and towns who know best in regulating utilities.

Proponents' Testimony:

Laurie Ekinger, representing Governor Racicot, encouraged support for HB 289.

Nancy McCaffree, Chair of the Public Service Commission, submitted her written testimony **(EXHIBIT 8)**.

Bill Verwolf, City of Helena, supported HB 289 which represents a final step in a experiment that has succeeded. In-1977, all water and sewer rates were subject to full PSC regulation. Then a bill was passed for local municipalities to go through a process to do rate regulation up to 12% per year and cover costs

of mandated improvements. This has been very successful and has shown that the city councils and commissions making these decisions work for and are elected by those paying the bill and is a strong inducement for them to keep those rates reasonable. History of this legislation has proven true and HB 289 will be the final step to let them do their own rates responsibly.

John Lotten, City Manager, Great Falls, who chaired the local government committee of the Governor's Task Force, stated that they had some mixed emotions about this which had nothing to do with the PSC who has done a good job with the utilities. If they were going to pursue the theme of empowering local communities to make their own decisions, they needed to do this. Any community that needs more than a 12% increase has failed. There was no dissatisfaction with the PSC but it is now time that communities be on their own. In Great Falls, there will never be a rate increase over 12% he guaranteed.

Jim Kembel, City of Billings, supported HB 289.

Opponents' Testimony: none

Questions From Committee Members and Responses:

SEN. LYNCH asked if the 12 fines in the fiscal note are all in excess of 12%? **Ms. McCaffree** answered they were.

SEN. LYNCH asked how many private water utilities there are in the state and if they would be covered by the PSC? **Ms. McCaffree** said there are 32 private water utilities and they would be covered under the PSC.

SEN. GAGE asked what the repeal sections were? **CHAIRMAN BECK** said they deal with the PSC reviewing when over a 12% increase and the other deals with a required annual report.

SEN. GAGE stated that in his county when the 12% was put in it would be an automatic full 12% increase. This may be a way of getting around the limitations of I-105. He asked someone to respond to his statement. **Mr. Verwolf** replied that the funds can not be mixed with any other funds or a source of revenue for local government.

SEN. GAGE asked that assuming local governments have been funding part of their utility program with local taxation, would they not be able to take these funds and replace them with taxation funds? **Ms. McCaffree** stated that it is her understanding that local governments could not do this. **Mr. Lotten** expanded that there are statutes to prevent mixing funds. Also, cities and some counties are audited once a year. Tax funds could be replaced if it is done on a loan basis.

SEN. GAGE asked if you can support a municipally owned water system with tax dollars as opposed to rates? **Mr. Lotten** said he

could not answer that question. He did say that in any government he has been involved with would not do that. **Mr. Ron Woods, MT PSC**, stated that title 7 of the local government codes provides for the establishment of enterprise funds being water, sewer and garbage. It provides how the charges will be recovered from the subscribers and will be self-supporting vehicles with in local government framework. They will also be supported by the rates and charges assessed to subscribers.

SEN. ECK asked if the utilities only include water and sewer? **Mr. Verwolf** replied that was correct because they are the only two utilities currently subject to PSC regulation. **Mr. Woods** expanded that there are several municipally owned gas distribution systems and a electric distribution system in Troy. Those would be exempt to PSC jurisdiction. Title 69 chapter 7 to gas, electric, water and sewer.

Closing by Sponsor:

REP. SOFT encouraged the support of the committee and stated that the Governor's Task Force did a good job getting public input on local government issues.

EXECUTIVE ACTION ON HB 259

Motion/Vote: SEN. GAGE MOVED HB 259 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 270

Motion/Vote: SEN. GAGE MOVED HB 270 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY.

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 8
DATE 3-14-95
BILL NO. HB 289

HB 289
Senate Hearing
March 14, 1995
Room 405

Testimony by: Nancy McCaffree, Chair
Public Service Commission

Mr. Chairman and Members of the Committee

The Public Service Commission testified before the Governor's Task Force regarding regulation on water for municipal utilities and supported whatever action the Task Force chose. We support Representative Soft's bill as amended. As the regulations are now written, the statute gives only an illusion of regulation.

We have one concern, and that is to be sure that local governments set rates to cover water and/or sewer only. They should be very conscientious that these costs do not become a source of general revenue.

Mr. Ron Woods from our Utility Division is here to answer any technical questions you may have. Thank you.

DATE March 14, 1995

SENATE COMMITTEE ON LOCAL GOVERNMENT

BILLS BEING HEARD TODAY: HB 101 HB 259
HB 270 HB 289

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Edward C Bissell III	ADL County Atty	101		X
MIKE KRESS	Mountain Line	HB270	X	
TIM SHANKS	MT Police Prot Assn	HB101		X
Dewey FRANCISCO	A.D.L.Co. P.D.	HB101		X
Jerry Williams	MT Police Protective Assn.	HB101		X
Tom Foley	AFSCME, MT Council	HB101		X
DAVE McCANN	IAFF	HB101		X
JEFF SCHOENEN	I.A.F.F	HB 101		X
W James Kembel	City of Billings	HB101 HB 289	X X	
John Lawton	City of Colstrip	HB 101 HB 289	✓ ✓	
Mike J Keane	Anaconda PD	HB 101		✓
Dan Blume	Anaconda PD	HB101		—
JOHN SULLIVAN	ANACONDA P.D	HB101		X
Tim Barkell	ANACONDA POLICE DEPT.	HB101		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETAR

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

_____

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Name	Representing	Bill No.	Check One: Support	Oppose
Jack Eblum	Anaconda Police	HB 101		✓
Steve Barclay	Anaconda Police	HB 101		✓
Tom DeTemmerman	Anaconda Police	HB101		✓
John P. Beebe	Anaconda Police	HB101		✓
[illegible]	Anaconda Police	HB101		✓
Gary Shelton	Anaconda Police	HB101		✓
Ken A. Kovacich	Anaconda P.D.	HB101		✓
Tim Bergstrom	Internat. Assoc. of Fire Fighters	HB 101		X
Pat Clinch	Montana State Council Prof. Fire Fighters	HB 101		X
Vern Erickson	MT State Firemen's Assoc	HB 101		X
Nancy McCaffree	Pub Ser. Comm'n	HB289	✓	
Ron Woods	Public Serv. Comm	HB289	✓	
Dave Ashley	Dept of Admin	HB289 HB101	✓	
DEAN RIGGIN	FIRE FIGHTER	HB 101		✓

VISITOR REGISTER

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REGISTER.F10

DATE _____

SENATE COMMITTEE ON _____

BILLS BEING HEARD TODAY: _____

_____

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Name	Representing	Bill No.	Check One: Support	Check One: Oppose
Larry Fasbender	City of Gt Falls	HB-101 HB-259	✓	
" "	Cascade City	HB-259	✓	
Rex Myers	GREAT FALLS FIRE	HB-101		X
RAY BERRYMAN	BUTTE-SILVER BOW FIRE DEPT	HB101		X
Bill Verwolf	City of Helena	HB289	✓	

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EXECUTIVE ACTION ON HB 425

Motion/Vote: SEN. HARDING MOVED HB 425 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 530

Discussion:

SEN. WELDON said that the amendments passed out looked correct.

Ms. Fox said there were the second amendments passed out which talked about using the word method. She said it was not complicated but method was used 71 times in the bill.

SEN. GAGE said he did not feel it was a big deal and did not need to be changed.

Motion/Vote: SEN. ECK MOVED TO ADOPT THE AMENDMENTS TO HB 530. THE MOTION CARRIED UNANIMOUSLY.

Motion: SEN. ECK MOVED HB 530 BE CONCURRED IN AS AMENDED.

Discussion:

SEN. HARGROVE asked if all the things in the fiscal note had been addressed? Ms. Fox said they appeared to have been addressed in the House.

Vote: THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 249

Motion/Vote: SEN. ECK MOVED HB 249 BE CONCURRED IN. THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON HB 289

Discussion:

CHAIRMAN BECK said he thought the Public Service Commission supported the bill.

SEN. LYNCH was concerned that if utilities were raised more than 12% there should be some type of hearing.

SEN. ECK said they would have to have a hearing because a resolution would be needed for the increase.

Motion/Vote: SEN. LYNCH MOVED HB 289 BE CONCURRED IN. THE MOTION CARRIED WITH SEN. GAGE AND SEN. ESTRADA VOTING NO.

Discussion on HB 220:

SEN. ECK had a question on the method of assessment adopted by resolution could not be modified if protested. This meant that if someone protested, you could not change and that was the opposite of what they wanted to say. She asked if there were any amendments.

Ms. Fox said she had some suggestions but none were drafted. The suggestion she received was to say the method of assessment adopted in the resolution may be modified unless protested in writing.

CHAIRMAN BECK said he had written down the possibility of using the method of assessment adopted in the original resolution.

SEN. LYNCH said he like the unless approved and then it was changed to if protested in writing. The old way was a positive and the protesting was negative.

SEN. ECK said by resolution unless protested was the general way of doing the assessments.

SEN. LYNCH said the public was not as well served that way because it would be a lot harder to get a majority of the people to protest than it would be to approve.

CHAIRMAN BECK asked to hold up action until the following week.

SENATE STANDING COMMITTEE REPORT

March 17, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration HB 289 (third reading copy -- blue), respectfully report that HB 289 be concurred in.

Signed: Sen Tom Beck
Senator Tom Beck, Chair

Amd. Coord.
Sec. of Senate

Sen. Weldon
Senator Carrying Bill

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